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Taxation -- Tax Fraud Cases -- Use of Net Worth Method

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The General Assembly of North Carolina in the 1955 session, incorporated such a provision into the North Carolina statute.[46] Decisions from other jurisdictions interpreting and applying such a provision have demonstrated its usefulness.[47]

It is believed that the recent amendment to the North Carolina statute will aid in the accomplishment of the purposes for which it was enacted by making the absent resident amenable to the substituted service. It is also believed that the amendment will eliminate, to a great extent, the issue raised in the principal case, but for one possible exception. This would arise when a motorist, who is an actual resident of North Carolina but has his domicile in another state, has an accident in North Carolina, and the plaintiff attempts to serve him under the non-resident motorist statute. If the defendant claims to be a resident of North Carolina and thus not amenable to service under the statute, a "direct judicial review" of the meaning of "non-resident" would be required.

Because of the fact "that the holdings as to what constitutes residence, domicile, etc., vary according to the purposes of the statutes,"[48] the legislature should make it clear what meaning is to be given "non-resident" as used in the North Carolina Non-Resident Motorist Statute.

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Taxation—Tax Fraud Cases—Use of Net Worth Method

In December of 1954, the United States Supreme Court handed down four decisions involving the use of the net worth method of discovering unreported income in prosecutions for attempted evasion of income taxes.[1] This note is an effort to examine the state of the law as it exists in the lower federal courts and to determine what effect the decisions of the Supreme Court will have upon the rules as laid down by the lower courts.

STAT. ANNOTATIONS § 170.55 (1949) (six months); N. Y. VEHICLE AND TRAFFIC LAW § 52a (thirty days).

[46] N. C. Sess. Laws (1955) c. 232. See, Survey of Statutory Changes, p. —, *supra*.

[47] Ogdon v. Granakos, 415 Ill. 591, 114 N. E. 2d 686 (1953); State *ex rel.* Thompson v. District Court, 108 Mont. 362, 91 P. 2d 422 (1939); Reed v. Lombardi, 266 App. Div. 44, 44 N. Y. S. 2d 382 (2d Dep't 1943).

[48] Hart v. Queen City Coach Co., 241 N. C. 389, 391, 85 S. E. 2d 319, 321 (1955).

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[1] Holland v. United States, 348 U. S. 121; Friedburg v. Unoted States, 348 U. S. 142; Smith v. United States, 348 U. S. 147; United States v. Calderon, 348 U. S. 160.

In Sullivan v. United States, 348 U. S. 170, decided at the same time, the Government had used the net worth method in prosecuting the case, but the issues raised on appeal were whether a federal district attorney could prosecute a tax case without the sanction of the Department of Justice and whether the trial court erred in denying defendant's post-sentencing motion to withdraw pleas of nolo contendere. Since no issues as to the use of the net worth method were raised on appeal, the case will not be considered.

Essentially, the use of the net worth method involves the calculation of the net worth of the taxpayer at the beginning and end of each year in question. The difference between these figures plus non-deductible expenses during the same year is calculated to be taxable income.

Originally, the method was used against racketeers,[2] to corroborate specific proof of unreported income from sources not disclosed by the taxpayer's income tax returns.[3] Today, it is frequently employed to test the accuracy of the income tax returns of business and professional men.[4] By its use, the United States is realizing revenue it would otherwise be unable to collect and prosecuting tax evaders who otherwise might never be apprehended.

The instances in which the government can prove undisclosed income by direct evidence are rare indeed. Therefore, it is necssary that the government have available means of proving its case indirectly. This is the reason and justification for the use of the method. There is, however, reason to think that upon occasion the net worth method is used even though direct evidence is available.[5] Its use under such circumstances should not be allowed since the method involves great danger to the rights of the taxpayer, as hereinafter discussed. Zealousness in the collection of the revenue is highly commendable but should not lead to unethical practices.

The authority for the use of indirect proof of unreported income is given by the Internal Revenue Code (1954) Section 446 (b).[6] There has been no limitation of this authority to civil cases as evidenced by the fact that all four of the cases presently under discussion are criminal prosecutions.

Dangers in Use

The consideration which should serve as a limitation on the use of

[2] Report of the Assistant Attorney General, 4 P-H 1955 FED. TAX SERV. ¶ 34,013 (1955).

[3] In United States v. Johnson, 319 U. S. 503 (1943), its use was approved to support the inference that income of a substantial amount had been received from a vast network of gambling houses during the years in which there was no income reported from this source. The four cases decided in December of last year, however, all concern income from the same source that produced the taxpayer's reported income.

[4] See note 2 *supra*.

[5] In United States v. Riganto, 121 F. Supp. 158, 159 (E. D. Va. 1954), Judge Hutcheson states that, "Basing my observation upon a number of cases during the past few years, it would seem that the use of one or both of these methods [net worth method and bank deposits and expenditures method] has been employed through preference at times when direct evidence is available."

[6] "Exceptions—If no method of accounting has been regularly used by the taxpayer, or if the method used does not clearly reflect income, the computation of taxable income shall be made under such method as, in the opinion of the Secretary or his delegate, does clearly reflect income." This prerequisite to the use of indirect methods of proof, that the taxpayer's method of accounting must be such that it does not clearly reflect his income, seems to demand only that the agents of the government so state. This problem is discussed later in this note.

the method is that it is fraught with danger to the taxpayer.[7] The jury may assume that once the government has established its computation, the crime of tax evasion automatically follows. Though it sounds plausible to say that the taxpayer should be able to explain the "bulge" in his net worth, he may be honestly unable to recount his financial history. As a practical matter, to force the taxpayer to explain such a "bulge" would tend to shift the burden of proof to the defendant, despite the recognized rule that the burden may not be shifted in criminal prosecution or civil fraud cases.[8]

Specific Problems

From these general considerations in the use of the net worth method, we turn to a consideration of specific problems involved in its use. A criminal conviction does not prevent the imposition of a civil penalty nor does a previously imposed civil penalty prevent a criminal conviction.[9] Therefore, both types of action will be considered.

a. *Adequacy of Records*

One of the most frequent defenses offered by taxpayers has been that indirect methods of proof could not be used when the taxpayer's books were, on their face, complete and accurate, unless the government showed specific omissions or inaccuracies. A number of lower courts had considered this contention justified.[10] In the *Holland* case, the Supreme Court ruled that the Internal Revenue Code, (1939) Section 41[11] did not so limit the Commissioner. It held that when the use of the method seems to disclose unreported income not reflected on the taxpayer's records, the records have been shown to contain false entries or to have serious omissions. Skillful concealment should not be an invincible barrier to proof.[12]

[7] "[T]here is danger of the case being tried on a theory which, keeping to the ear the promise that a defendant is presumed innocent until his guilt is established beyond a reasonable doubt, breaks it to the hope by allowing a series of theoretical estimates and computations as to defendant's income to take the place of proof of it." Demetree v. United States, 207 F. 2d 892, 893 (5th Cir. 1953).

[8] *Holland v. United States.* The Court also said: "Were the taxpayer compelled to come forward with evidence to explain the "bulge" in his net worth, he might risk lending support to the Government's case by showing loose business methods or losing the jury through his apparent evasiveness." 348 U. S. 121, 128 (1954). See also Demetree v. United States, 207 F. 2d 892 (5th Cir. 1953).

[9] Spies v. United States, 317 U. S. 492 (1943); Slick v. United States, 1 F. 2d 897 (7th Cir. 1924).

[10] United States v. Riganto, 121 F. Supp. 158 (E. D. Va. 1954); Ragsdale v. Paschal, 118 F. Supp. 280 (E. D. Ark. 1954); Talley v. Commissioner, 20 T. C. 715 (1953); Booker W. Evans, P-H 1954 MEM. DEC. ¶ 54,014 (1954).

[11] Now INT. REV. CODE § 446 (1954).

[12] There were cases in the lower courts which had adopted the same view. The Court of Claims speaking in Jacobs v. United States, 54-2 U. S. T. C. ¶ 9740 (1954), said: "The law allows the Commissioner to use another method if the taxpayer's method does not clearly reflect income. To determine this question itself involves computation of income by some alternative method. Another method of accounting

In two cases the lower courts have allowed the use of the method[13] even though the taxpayer's books have appeared adequate. One of these cases[14] even held that the taxpayer had no right to have the question of the sufficiency of his records submitted to the jury as the government had a right to use the net worth method whether his records were adequate or not. If this rule is limited to the *adequacy* of the records, there is nothing wrong with this statement of the law. It would, however, be unjustifiable to extend this rule to *accuracy* because the very thing which the government is attempting to show by the use of the net worth method is that the books are not accurate, *i.e.,* that they are false or incomplete.

b. *Burden of Proof*

Having thus established the right to make use of the net worth method, the government faces the problem of proving its case through the use of that method. The government usually presents evidence showing, by an itemized list, the assets of the taxpayer at the beginning and end of each year in question. It also presents itemized lists of nondeductible expenses of the taxpayer for each of those years. Then, the calculations made from these figures and the results achieved are presented. The general rule in civil cases is that once the government has so established its net worth calculations the accuracy of those calculations is presumed subject to rebuttal by the taxpayer.[15] But the burden of proof remains upon the government to prove fraudulent intent in civil fraud cases and to prove willful intention to evade income taxes in criminal cases.[16] The use of the net worth method involves the use of circumstantial evidence, but it is not necessary that such circumstantial evidence exclude every reasonable hypothesis other than guilt;

> "[T]he better rule is that where the jury is properly instructed on the standards for reasonable doubt, such an additional instruction on circumstantial evidence is confusing and incorrect."[17]

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may not be used unless one can show by use of that method that the taxpayer's own method does not clearly state income." The Tax Court also limited its pronouncement that the net worth method cannot be used when the taxpayer's books are complete and accurate. "And when the increase in net worth is greater than that reported on the taxpayer's returns or is inconsistent with such books and records as are maintained by him, the net worth method is cogent evidence that there is unreported income or that the books and records are inadequate, inaccurate or false."

[13] Dupree v. United States, 218 F. 2d 781 (5th Cir. 1955); Earl Kite, 22 P-H MEMO T. C. 53-865 (1953).

[14] Dupree v. United States, *supra* note 13.

[15] BALTER, FRAUD UNDER FEDERAL TAX LAW ¶ 177 (2d ed.; Chicago: Commerce Clearing House, 1953).

[16] *Holland v. United States;* United States v. Skidmore, 123 F. 2d 604 (7th Cir. 1941).

[17] Holland v. United States, 348 U. S. 121, 139 (1954).

c. *Opening Net Worth*

To establish the offense or penalty by the use of the net worth method, the government must prove with "reasonable certainty" that its opening net worth figure is accurate, that is, that the value of the assets of the accused at the beginning of the prosecution period was as represented by the government's net worth statement.[18] Even though the government's case shows an increase of the taxpayer's assets, if the opening net worth figure is wrong, then all of the caluculations are wrong. The Court does not fully discuss what it means by the phrase "reasonable certainty." In the *Holland* case, the government introduced evidence of extreme economic hardship in the taxpayer's past financial history. The taxpayer's past income tax returns were also introduced to show that his reported income had been practically nil. The purpose of this evidence was to prove that the taxpayer could not have had $113,000 in cash on hand at the beginning of the period as he maintained.

While it is not contended that this evidence was insufficient to refute the taxpayer's claim, there seems to be a failure on the part of the Court to discuss what evidence is necessary to show the accuracy of the government's opening net worth statement with "reasonable certainty" in the first instance. The burden upon the government in fraud and civil cases should be to show that it has made an extensive investigation of the taxpayer's records and has made inquiries of the banks and other financial institutions and agencies with which he deals, his business associates, his family, his attorney, etc., without being able to discover any assets other than the ones included in its statement of opening net worth. Further, the government should show the past financial history of the taxpayer in order to ascertain the range within which the assets of the taxpayer can be expected to fall. Such evidence will not prove beyond any doubt that its figures are correct, but it is all that reasonably can be expected of the government.

To place any greater burden upon the government would be to impose an impossible task.[19] The taxpayer has more and better knowledge of his assets at any particular time than anyone else. So it will not be impossible for him to show any inaccuracies in the government's figures which may occur.[20] Any less proof by the government should not be considered as sufficient evidence of the accuracy of the opening net worth figures to allow the government's case to go to the jury.

[18] Holland v. United States, 348 U. S. 121, 132 (1954).

[19] Bryan v. United States, 175 F. 2d 223, 227 (5th Cir. 1949) (dissenting opinion). For examples of the type of evidence used in the past to establish the government's opening net worth statement see Friedburg v. United States, 348 U. S. 142 (1954); Schauerman v. United States, 174 F. 2d 985 (8th Cir. 1951).

[20] Still we must be careful that in the application of the rule, the burden of proof is not shifted to the taxpayer. See United States v. Riganto, 121 F. Supp. 158 (E. D. Va. 1954).

d. *Furnishing Leads*

The *Holland* case establishes one rule upon which it is to be hoped the taxpayer may rely. If he furnishes "relevant leads" as to the source of assets claimed to be on hand at the opening date, it is incumbent upon the government to check such leads.[21] "Relevant leads" may be defined as those which are not too far removed and not impossible of being checked, and which if true would establish the innocence of the taxpayer. Failure to check such leads may be interpreted by the trial court to mean that the leads would have verified such sources and that the government's case is too weak to go to the jury. Unfortunately, this rule is watered down by the Court's holding that though the government did fail to track down leads given it in the *Holland* case, the showing made by the government of the financial history of the taxpayer was conclusive proof that he could not have had on hand at the opening date the hoard of cash which he claimed. Therefore, the taxpayer must not assume that the government is compelled under all circumstances to track down leads which he provides.

e. *Admissions*

One type of proof frequently offered by the government in order to prove its opening net worth figure is the introduction of books and records of the accused and admissions made by him, *i.e.*, extra-judicial statements made after the fact to agents of the government charged with investigating the offense. This raises the vitally important question of constitutional privilege against self-incrimination. As in the usual criminal case, the taxpayer has this privilege in tax evasion prosecutions, but it may be waived if not seasonably claimed.[22] Of course, a claim alone does not establish the privilege. The government is entitled to a proceeding to compel testimony and so have the claim tested out.[23]

[21] Holland v. United States, 348 U. S. 121, 127 (1954).

[22] United States v. Murdock, 284 U. S. 141 (1931); Hanson v. United States, 186 F. 2d 61 (8th Cir. 1950); Nicola v. United States, 72 F. 2d 780 (3d Cir. 1934); United States v. Lawn, 115 F. Supp. 674 (S. D. N. Y. 1953). The taxpayer must make the claim of constitutional privilege to the revenue agent when asked for books or testimony. Nicola v. United States, *supra*. There is no requirement that the taxpayer be warned of his constitutional privilege before information is elicited. Power v. United States, 223 U. S. 303 (1911); Wilson v. United States, 162 U. S. 613 (1895); United States v. Block, 88 F. 2d 618 (2d Cir. 1927).

[23] United States v. Murdock, *supra* note 22. As to the power of the Commissioner to compel testimony and to examine books, see INT. REV. CODE §§ 7602, 7604(a), 7605, 6501(a) (1954). The Constitutional privilege attaches to personal records and partnership records since they, too, are considered personal records. Hanson v. United States, 186 F. 2d 61 (8th Cir. 1950); Nicola v. United States, 72 F. 2d 780 (3d Cir. 1934); United States v. Lawn, 115 F. Supp. 674 (S. D. N. Y. 1953). But no privilege attaches to corporate or public records. There is a possible argument that since all records are required to be kept by the provisions of INT. REV. CODE §§ 446(a) and 446(c) (1954), they thereby become public records and have no privilege. Such an argument was sustained under the similar provisions of the Emergency Price Control Act. Shapiro v. United States, 333 U. S. 1

Assuming that the taxpayer does waive his constitutional immunity, of what value are his admissions to the government? The *Smith* case holds that they may be used as evidence but must be corroborated as in other criminal cases.[24] All admissions made after the fact, to a person charged with investigating the possibility of wrong-doing and which embrace an element vital to the government's case, must be corroborated.[25] Any time a fact is sufficiently important for the government to adduce extra-judicial statements of the accused bearing on its existence, and it is relied upon to sustain the defendant's conviction, there is need for corroboration.[26]

The corroboration required is independent proof of the corpus delicti. This requirement is recognized by the Court to force the government to prove not only the commission of the crime, but who committed it. However, this is true in any crime involving scienter.[27] It is not necessary that the corroborative evidence prove the offense beyond a reasonable doubt, or by a preponderence of the evidence, as long as it is substantial and the evidence as a whole is sufficient for a jury to find that the defendant is guilty.[28] The independent evidence may bolster the admissions and thus prove the offense "through" the statments of the accused.[29]

f. *Source of Income*

Once the government has proven that there is unreported income, it must prove that the source of it is one that produces taxable income. Some lower courts had taken the view that in order to do this, the government had to negate all possibilty of there being sources of non-taxable income.[30] Others had refused to place this "impossible burden" upon

(1947). So far, it has not been sustained under the Internal Revenue Code. For an excellent discussion of this whole problem, see Norman Redlich, *Searches, Seizures, and Self-Incrimination in Tax Cases,* 10 TAX L. REV. 191, 192 (1955).

[24] Admissions are universally held to be admissible in evidence against the party making them in civil cases. WIGMORE, EVIDENCE § 1048 (1940). Therefore civil cases are not included in this discussion.

[25] But the Court in the *Holland* case does leave the door open to the possibility that the admissions may be made under such circumstances as to lend to them a great degree of credibility, citing State v. Saltzman, 241 Iowa 1373, 44 N. W. 2d 24 (1950).

[26] Smith v. United States, 348 U. S. 147 (1954). The government had based its finding of the value of the assets of the taxpayer at the opening date upon the taxpayer's past financial history, which history was reconstructed from statements made by the taxpayer.

[27] Forte v. United States, 94 F. 2d 236 (D. C. Cir. 1937).

[28] Smith v. United States, 348 U. S. 147, 150 (1954); Heasley v. United States, 218 F. 2d 872 (9th Cir. 1953); Bell v. United States, 185 F. 2d 302 (4th Cir. 1950); Forte v. United States, 94 F. 2d 236 (D. C. Cir. 1937); Daeche v. United States, 250 Fed. 566 (2d Cir. 1918). See also Pearlman v. United States, 10 F. 2d 460 (9th Cir. 1926).

[29] Smith v. United States.

[30] United States v. Fenwick, 177 F. 2d 397 (8th Cir. 1949); Bryan v. United States, 175 F. 2d 223 (5th Cir. 1949).

the government.[31] Other courts went further, holding that when a discrepancy between increased net worth and reported income was shown, the burden of explanation shifted to the taxpayer.[32]

The Supreme Court, in the *Holland* case, held that proof of a likely source from which the income could have arisen is sufficient to go to the jury. But if the taxpayer supplies the government with relevant leads, it is incumbent upon the government to track them down.[33]

So the Court's view seems to be the intermediate one. The government need show only that there is a source of income which is probably capable of producing the alleged unreported taxable income. It is not necessary for it to go further and disprove the possibility of there being any sources of non-taxable income. It has made out its prima facie case upon showing the likely source of the unreported taxable income, which income it claims is proven to exist through the employment of the net worth method.

g. *Willfulness*

To sustain the imposition of the penalty for attempt to evade income taxes, it must be shown that there was such an attempt.[34] In order to sustain a conviction for such an attempt, it must be shown that the attempt was willful.[35] Merely establishing unreported taxable income is not sufficient to show either.[36] Willfulness is not proved by a mere intentional act or omission, but there must be a corrupt intent to do the wrong.[37] A consistent pattern, over a number of years, of substantial

[31] Bell v. United States, 185 F. 2d 302 (4th Cir. 1950); Brodella v. United States, 184 F. 2d 823 (6th Cir. 1950).

[32] 174 F. 2d 391 (8th Cir. 1949) end cases cited in United States v. Caserta, 199 F. 2d 905, 907 (3d Cir. 1952).

[33] One wonders how much the taxpayer may rely upon this rule in view of the rule previously discussed concerning leads furnished as to possible sources of income from which a cache of mony could have arisen and the qualification to that rule that the government may not have to trace down even relevant leads if its case is strong enough. However, notwithstanding the fact that the government's proof in the *Holland* case was quite strong, the Court intimated that it would have required checking of leads had the taxpayer provided any which were relevant. Though the taxpayer had given leads to the government as to the source of the hoard of cash he claimed to have had at the opening date, he gave none as regards a possible source of non-taxable income in the subsequent years.

The court remarked in Dupree v. United States, 218 F. 2d 781 (5th Cir. 1955), that it had waited for the decisions in the four cases here under consideration in order to receive guidance therefrom. It then held that the government, by affirmative evidence, must negative all sources of non-taxable income before it has established its prima facie case. For a statement of the law on this point in civil tax fraud cases see, BALTER, FRAUD UNDER FEDERAL TAX LAW ¶ 175 (2d ed.; Chicago: Commerce Clearing House, 1953).

[34] Morris Lipsitz, 21 T. C. 917 (1950).

[35] Holland v. United States, 348 U. S. 121, 139 (1954); United States v. Sullivan, 274 U. S. 255 (1927); United States v. Skidmore, 133 F. 2d 604 (7th Cir. 1941).

[36] Holland v. United States; 10 MERTENS, LAW OF FEDERAL INCOME TAXATION ¶ 55.58 (Supp. Jan. 1955).

[37] United States v. Murdock, 290 U. S. 389 (1933); 27 AM. JUR., *Income Taxes* § 250 (1940). Willfulness has been defined as "an act done with a bad purpose"

understatements of income is enough to sustain a criminal conviction if coupled with a showing of a lack of records or exclusion of income from the records, or other indirect evidence.[38]

h. *Annual Accounting Period*

It is further clear that proof of an understatement in some but not all of the prosecution years will sustain a conviction only for those years in which an understatement is proved.[39] There is a surprising tendency on the part of the courts in both civil and criminal cases to allow the government to allocate the income it has discovered by use of the net worth method equally over the years in question. Then the taxpayer is obliged to come forward and show that this is an improper allocation.[40]

Conclusion

Just what effect the four cases will have upon the proceedings in lower courts is problematical. Except for those few rules previously accepted in some lower courts and rejected in these cases, it is doubtful that the decisions will cause much change in the holdings of the lower courts. The rules formulated for the guidance of the lower courts are unfortunately too nebulous and shadowy to be of much practical help, except that the lower courts are now on notice that the Supreme Court does think cases involving the use of the net worth method should be regarded with some suspicion and so should be closely scrutinized to protect the rights of the taxpayer.

The opinions of the Court do apparently cast a greater burden upon the government to establish its prima facie case, but just how great a burden this turns out to be will have to await the light of later decisions of the lower courts interpreting these opinions, or possibly even further decisions of the Supreme Court.

Until that time, it is hoped that the courts will closely scrutinize cases involving the use of the net worth method and that the Department

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or "without justifiable excuse" or with "careless disregard whether or not one has the right so to act." 10 MERTENS, LAW OF FEDERAL INCOME TAXATION ¶ 55.41 (1948).

[38] Double sets of books, false entries or authorizations, false invoices or documents, destruction of books and records, concealment of assets or covering up sources of income, handling of one's affairs in a manner to avoid the making of records usual in such transactions, and any other conduct, the likely effect of which would be to mislead or conceal. Spies v. United States, 317 U. S. 492 (1943); United States v. Clark, 123 F. Supp. 608 (S. D. Cal. 1954).

[39] Holland v. United States, 348 U. S. 121, 129 (1954).

[40] United States v. Ridley, 120 F. Supp. 530 (N. D. Ga. 1954); Estate of Bartlett, 22 T. C. No. 151 (1954). Another interesting case is Harry B. Mikelberg, 23 T. C. No. 41 (1954), where income of husband and wife, both physicians, who kept no records, was allocated between them on the basis of the time devoted to their practice.

of Justice and the Internal Revenue Service will not abuse the use of the method.

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Statutes—Interpretation of "Residence"

The North Carolina Supreme Court was recently faced with the problem of interpreting the word "residing" in what appears to be a new setting. In *Barker v. Iowa Mutual Insurance Company*,[1] the court determined that a minor and dependent son, though married and living in another city while attending college, was "residing with" his father within the meaning of the clause in a fire insurance policy covering personalty "belonging to the insured or any member of the family of and residing with, the insured, while elsewhere than on the described premises."[2] The court said that the term "residing with" was equivalent to having a residence with the insured, construing the word residence to mean domicile.

Whether or not a particular place is a person's residence or domicile has long been a problem. This problem is always acute since a person must have a residence or domicile in a particular place for many purposes. Among these purposes for which a person's residence or domicile is important are attachment,[3] candidacy for office,[4] registration of chattel mortgages and conditional sales contracts,[5] as executor or administrator of a decedent's estate,[6] divorce,[7] homestead,[8] both petit and grand jury service,[9] in actions before a justice of the peace,[10] as a candidate for the state bar examination,[11] naturalization,[12] service of process on nonresi-

[1] 241 N. C. 397, 85 S. E. 2d 305 (1955).
[2] *Id.* at 399, 85 S. E. 2d at 306.
[3] *E.g.*, Brann v. Hanes, 194 N. C. 571, 140 S. E. 292 (1927); N. C. GEN. STAT. § 1-440.3 (1953).
[4] *E.g.*, Hannon v. Grizzard, 89 N. C. 115 (1883).
[5] *E.g.*, Sheffield v. Walker, 231 N. C. 556, 58 S. E. 2d 356 (1950); Industrial Discount Corp. v. Radecky, 205 N. C. 163, 170 S. E. 640 (1933); Weeks v. Adams, 196 N. C. 512, 146 S. E. 130 (1928); N. C. GEN. STAT. § 47-20.2 (1953).
[6] *E.g.*, Branch Banking and Trust Co. v. Finch, 232 N. C. 485, 61 S. E. 2d 377 (1950).
[7] *E.g.*, Williams v. North Carolina, 325 U. S. 226 (1945); McLean v. McLean, 233 N. C. 139, 63 S. E. 2d 138 (1950); Henderson v. Henderson, 232 N. C. 1, 59 S. E. 2d 227 (1950); Bryant v. Bryant, 228 N. C. 287, 45 S. E. 2d 572 (1947); N. C. GEN. STAT. §§ 50-5 (4), 50-5 (6), 50-6 (1950 as amended 1953).
[8] *E.g.*, Taylor v. Hayes, 172 N. C. 663, 90 S. E. 801 (1916); Cromer v. Self, 149 N. C. 164, 62 S. E. 885 (1908); Fulton v. Roberts, 113 N. C. 422, 18 S. E. 510 (1890); Munds v. Cassidey, 95 N. C. 558, 4 S. E. 353 (1887); N. C. CONST. Art. X, § 1.
[9] *E.g.*, State v. Wilcox, 104 N. C. 847, 10 S. E. 453 (1889); State v. Bullock, 63 N. C. 520 (1869); N. C. GEN. STAT. § 9-1 (1953).
[10] *E.g.*, Austin v. Lewis, 156 N. C. 461, 72 S. E. 493 (1911); N. C. GEN. STAT. §§ 7-138 and 7-142 (1953).
[11] *E.g.*, Baker v. Varser, 240 N. C. 260, 82 S. E. 2d 90 (1954); Rule Five of the Rules Governing Admission to Practice of Law in North Carolina, Vol. 4 N. C. GEN. STAT. 65 *et seq.* (1943).
[12] *E.g.*, Hantzopoulos v. United States, 20 F. 2d 146 (M. D. N. C. 1927).